

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF LABOR STANDARDS ENFORCEMENTLEGAL SECTION  
455 Golden Gate Avenue, Room 3166  
San Francisco, CA 94102  
(415) 703-4150H. THOMAS CADELL, JR., *Chief Counsel*

February 22, 1993

Bruce P. Crary, Esq.  
Ballard, Rosenberg & Golper  
10 Universal City Plaza  
16th Floor  
Universal City, CA 91608-1097

Re: Reimbursement For Expenses

Dear Mr. Crary:

The Labor Commissioner, Victoria Bradshaw, has asked me to respond to your letter of December 9, 1993, regarding the above-referenced subject. Please excuse the delay in response.

You state that your client operates a number of retail stores in California and, occasionally, the managers of these establishments use their own personal vehicles as part of their job duties. You state that this use is not specifically required<sup>1</sup>. The managers are paid twenty-five cents per mile for every mile they drive their personal vehicle on company business. Your questions are:

1. Assuming the employer is reimbursing the employee for operating costs at 25 cents per mile, is there ever a circumstance when Labor Code §2802 requires an employer also to indemnify an employee for the cost of repairing or replacing a personal vehicle which is damaged or stolen while being used for work-related purposes?
2. If so, may an employer require an employee to purchase (at their own cost) insurance against damage or theft of a personal vehicle? May the employer insist that any damage claims first be processed by the carrier, and thus be responsible, if at all, only for any losses not covered by the insurer?

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<sup>1</sup>

Your letter also states that "company policy requires each manager to insure his or her own vehicle against losses due to damage or theft." We don't understand the need for such a requirement if the manager is not specifically required to use his personal automobile in the service of the employer.

1993.02.22-3

Initially, the Division would take the position that the payment of a reasonable mileage reimbursement covers all reasonable operating costs incurred by the employee in the operation of the vehicle. The DLSE accepts the mileage reimbursement used by the IRS as reasonable. Those operating costs would include damages or loss due to accident or theft unless the damage to or the loss of the vehicle due to accident or theft was the result of the negligence of the employer.

Therefore, the answer to your first question is: Yes, there may be circumstances when an employer would be liable for the loss despite the payment of a reasonable mileage allowance. However, that obligation would only arise in the event of negligence by the employer.

In answer to your second question, the DLSE would conclude that an employer may not require an employee to purchase insurance at their own cost. In the absence of an agreement to pay a reasonable mileage reimbursement, the employer would be required to reimburse the employee for the actual costs incurred in operating the vehicle while that vehicle was being used in the service of the employer. Those costs would include, of course, losses due to accident or theft while the vehicle is being used for the purposes of the employer. The employer cannot escape that liability<sup>2</sup> by insisting that the employee pick up a portion of the cost or insuring against a loss by the employer.

In addition, of course, a requirement by the employer that the employee purchase insurance coverage is a violation of Labor Code §450.

I hope this adequately explains the position of the DLSE in regard to your questions. Again, please excuse the delay in answering your inquiry.

Yours truly,

H. THOMAS CADELL, JR.  
Chief Counsel

c.c. Victoria Bradshaw  
All Regional Managers

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<sup>2</sup> Labor Code §2804.